

provider's name and address, a business telephone number which the consumer may use to obtain additional information or to register a complaint, and the rates for the service;

(2) The service provider agrees to notify the consumer of any future rate changes;

(3) The consumer agrees to use the service on the terms and conditions disclosed by the service provider; and

(4) The service provider requires the use of an identification number or other means to prevent unauthorized access to the service by nonsubscribers;

(5) Provided, however, that disclosure of a credit, prepaid account, debit, charge, or calling card number, along with authorization to bill that number, made during the course of a call to an information service shall constitute a presubscription or comparable arrangement if an introductory message containing the information specified in Section 64.1504(c)(2) is provided prior to, and independent of, assessment of any charges. No other action taken by a consumer during the course of a call to an information service, for which charges are assessed, can create a presubscription or comparable arrangement.

(6) Provided, that a presubscription arrangement to obtain information services provided by means of a toll-free number shall conform to the requirements of § 64.1504(c).

(c) Calling card means an identifying number or code unique to the individual, that is issued to the individual by a common carrier and enables the individual to be charged by means of a phone bill for charges incurred independent of where the call originates.

4. Section 64.1503 is renamed and revised to read as follows:

§ 64.1503 Termination of pay-per-call and other information programs.

(a) Any common carrier assigning a telephone number to a provider of interstate pay-per-call service shall specify by contract or tariff that pay-per-call programs not in compliance with § 64.1502 shall be terminated following written notice to the information provider. The information provider shall be afforded a period of no less than seven and no more than 14 days during which a program may be brought into compliance. Programs not in compliance at the expiration of such period shall be terminated immediately.

(b) Any common carrier providing transmission or billing and collection services to a provider of interstate information service through any 800 telephone number, or other telephone number advertised or widely understood to be toll-free, shall promptly investigate any complaint that such service is not provided in accordance with § 64.1504 or § 64.1510(c), and, if the carrier reasonably determines that the complaint is valid, may terminate the provision of service to an

information provider unless the provider supplies evidence of a written agreement that meets the requirements of this § 64.1504(c)(1).

5. Section 64.1504 is renamed and revised to read as follows:

§ 64.1504 Restrictions on the use of toll-free numbers.

A common carrier shall prohibit by tariff or contract the use of any 800 telephone number, or other telephone number advertised or widely understood to be toll-free, in a manner that would result in:

- (a) The calling party or the subscriber to the originating line being assessed, by virtue of completing the call, a charge for a call;
- (b) The calling party being connected to a pay-per-call service;
- (c) The calling party being charged for information conveyed during the call unless
 - (1) The calling party has a written agreement (including an agreement transmitted through electronic medium) that specifies the material terms and conditions under which the information is offered and includes
 - (i) The rate at which charges are assessed for the information;
 - (ii) The information provider's name;
 - (iii) The information provider's business address;
 - (iv) The information provider's regular business telephone number;
 - (v) The information provider's agreement to notify the subscriber at least one billing cycle in advance of all future changes in the rates charged for the information;
 - (vi) The subscriber's choice of payment method, which may be by direct remit, debit, prepaid account, phone bill, or credit or calling card and, if a subscriber elects to pay by means of phone bill, a clear explanation that the subscriber will be assessed for calls made to the information service from the subscriber's phone line;
 - (vii) A unique personal identification number or other subscriber-specific identifier that must be used to obtain access to the information service and instructions on its use, and, in addition, assures that any charges for services accessed by use of the subscriber's personal identification number or subscriber-

specific identifier be assessed to subscriber's source of payment elected pursuant to paragraph (c)(1)(vi) of this section; or

(2) The calling party is charged for the information by means of a credit, prepaid, debit, charge, or calling card and the information service provider includes in response to each call an introductory message that

(i) Clearly states that there is a charge for the call;

(ii) Clearly states the service's total cost per minute and any other fees for the service or for any service to which the caller may be transferred;

(iii) Explains that the charges must be billed on either a credit, prepaid, debit, charge, or calling card;

(iv) Asks the caller for the card number;

(v) Clearly states that charges for the call begin at the end of the introductory message; and

(vi) Clearly states that the caller can hang at or before the end of the introductory message without incurring any charge whatsoever.

(d) The calling party being called back collect for the provision of audio or data information services, simultaneous voice conversation services, or products; and

(e) The calling party being assessed by virtue of the caller being asked to connect or otherwise transfer to a pay-per-call service, a charge for the call.

(f) Provided, however, that

(1) Notwithstanding paragraph (c)(1) of this section, a written agreement that meets the requirements of that paragraph is not required for

(i) Calls utilizing telecommunications devices for the deaf;

(ii) Directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate; or

(iii) Any purchase of goods or of services that are not information services.

(2) The requirements of paragraph (c)(2) of this section shall not apply to calls from repeat callers using a bypass mechanism to avoid listening to the introductory message: *Provided*, That information providers shall disable such a bypass mechanism after the

institution of any price increase for a period of time determined to be sufficient by the Federal Trade Commission to give callers adequate and sufficient notice of a price increase.

6. In Section 64.1510, paragraph (b) is revised and new paragraph (c) is added to read as follows:

(b) Any common carrier offering billing and collection services to an entity providing interstate information services on a collect basis shall, to the extent possible, display the billing information in the manner described in paragraphs (a)(2)(i), (A), (B), (D) and (a)(2)(ii) of this section.

(c) If a subscriber elects, pursuant to § 64.1504(c)(1)(vi), to pay by means of a phone bill for any information service provided by through any 800 telephone number, or other telephone number advertised or widely understood to be toll-free, the phone bill shall

(1) Include, in prominent type, the following disclaimer: "Common carriers may not disconnect local or long distance telephone service for failure to pay disputed charges for information services;" and

(2) Clearly list the 800 or other toll-free number dialed.

APPENDIX B

RULES PROPOSED

Part 64 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for Part 64 continues to read as follows:

AUTHORITY: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 226, 228, 48 Stat 1070, as amended, 1077; 47 U.S.C. 201, 218, 226, 228 unless otherwise noted.

2. Section 64.1501(b) is revised to read as follows

(b) Presubscription or comparable arrangement means an agreement to purchase information services evidenced by

- (1) A written contractual agreement (including one transmitted through electronic medium) between an information services provider and a legally competent individual that is executed for the sole purpose of arranging purchase of information services and is separate or easily severable from any promotions or inducements, and in which

- (i) The service provider clearly and conspicuously discloses to the consumer all material terms and conditions associated with the use of the service, including the service provider's name and address, a business telephone number which the consumer may use to obtain additional information or to register a complaint, and the rates for the service;

- (ii) The service provider agrees to notify the consumer at least one billing cycle in advance of any future rate changes;

- (iii) The consumer agrees to use the service on the terms and conditions disclosed by the service provider; and

- (iv) The service provider requires the use of an identification number or other means to prevent unauthorized access to the service by nonsubscribers; or

- (2) Disclosure of a pre-existing credit, prepaid account, debit, charge, or calling card number, along with authorization to bill that number, *Provided* that an actual credit, charge, or calling card

- (i) Has, upon request or application, been delivered to the party to be billed prior to assessment of charges; and

- (ii) Does not operate to assess charges through automatic number identification;

(3) Provided, that a presubscription arrangement to obtain information services provided by means of a toll-free number shall conform to the requirements of § 64.1504(c).

3. In Section 64.1504, the introductory language in paragraph (c) is revised and paragraphs (d) and (e) are revised to read as follows:

* * * * *

(c) The calling party or subscriber to the originating line being charged for information conveyed during the call unless

* * * * *

(d) The calling party or subscriber to the originating line being called back collect for the provision of audio or data information services, simultaneous voice conversation services, or products; and

(e) The calling party or subscriber to the originating line being assessed by virtue of the caller being asked to connect or otherwise transfer to a pay-per-call or other information service, a charge for the call.

4. In Section 64.1510, the introductory text of paragraph (c) is republished, and paragraph (c)(2) is revised to read as follows:

(c) If a subscriber elects, pursuant to § 64.1504(c)(1)(vi), to pay by means of a phone bill for any information service provided by through a telephone number beginning with an 800 service access code, or any other telephone number advertised or widely understood to be toll-free, the phone bill shall

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(2) Clearly list the 800 or other toll-free number dialed in a location separate from local and long distance telephone charges.